

JUN 30 2006

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN THE MATTER OF: : CASE NUMBER: A05-92432-PWB

BOBBY J. LONG, :

Debtor. :

IN PROCEEDINGS UNDER  
CHAPTER 7 OF THE  
BANKRUPTCY CODE

MONET PINCUS, individually and  
as receiver for Palmetto Law Group,

Plaintiff :

ADVERSARY PROCEEDING  
NO. 05-6292

v. :

BOBBY J. LONG, :

Defendant. :

IN THE MATTER OF: :

KARL P. JACOBSEN, :

Debtor. :

IN PROCEEDINGS UNDER  
CHAPTER 7 OF THE  
BANKRUPTCY CODE

MONET PINCUS, individually and  
as receiver for Palmetto Law Group,

Plaintiff :

ADVERSARY PROCEEDING  
NO. 05-6293

v. :

KARL P. JACOBSEN, :

Defendant. :

**ORDER ON PLAINTIFF'S MOTION TO STRIKE REFERENCE TO PALMETTO  
LAW GROUP, LLC, AND DEBTORS' MOTION TO DISMISS**

Monet Pincus ("Plaintiff"), Bobby J. Long and Karl Jacobsen ("Long," "Jacobsen" and,

collectively, “Debtors”) are former partners in the law practice of Palmetto Law Group, LLC, which is now in receivership with the Plaintiff as the receiver pursuant to an Order entered April 13, 2004, in *Palmetto Law Group, LLC, Karl Jacobsen, and Bobby J. Long v. Monet Pincus*, Civil Action No. 03-CP-40-4928 in the Court of Common Pleas for the Fifth Judicial Circuit, State of South Carolina. The Plaintiff contends that debts owed by the Debtors to the Plaintiff, individually and as receiver for the Palmetto Law Group, LLC, as outlined in the April 13, 2004 Order and in the Plaintiff’s April 27, 2004 Affidavit made pursuant to that Order are nondischargeable pursuant to 11 U.S.C. § 523(a)(4) and 523(a)(6).

Before the Court are two motions filed in both above-styled adversary proceedings. First, the Plaintiff in Count III of her Complaints requests that any reference by either Debtor to the name “Palmetto Law Group” and its predecessor entities should be stricken from the bankruptcy petition. Second, each Debtor moves to dismiss the Plaintiff’s complaint on the grounds that the Plaintiff has not pleaded with specificity the elements necessary for a § 523(a)(4) or § 523(a)(6) claim, and that the Plaintiff’s allegations in each complaint reference conduct made by one, but in some cases, not both Debtors which are prejudicial. These motions were scheduled for hearing on April 25, 2006, and then rescheduled to May 16, 2006, due to a conflict of the Plaintiff’s counsel. Due to a conflict of one of the Debtors, the May 16, 2006, hearing was taken off the calendar. The Court has reviewed the motions and has determined that a hearing is unnecessary on these motions and enters this Order accordingly.

#### Motion to Strike the Name Palmetto Law Group

In each case, the Plaintiff moves to strike any reference to “Palmetto Law Group” and its predecessor entities because it is improper and inappropriate. (Complaints at ¶ 19). The Debtor Bobby Long responds that it is incorrect to characterize inclusion of the name “Palmetto Law

Group” on his bankruptcy petition as his intent to have the entity named as a debtor. Instead, Long contends that he listed “Palmetto Law Group” as a trade name under which he did business. The Debtor Karl Jacobsen has not filed a separate response to the Plaintiff’s request to strike the reference to “Palmetto Law Group,” but denies in his answer that its use is improper or inappropriate.

The Advisory Committee Notes to Form 1, Voluntary Petition, of the Official Bankruptcy Forms states that “[a]ll names used by the debtor, including trade names, names used in doing business, married names, and maiden names should be furnished in the spaces provided. . . . A complete list will enable creditors to identify the debtor properly when they receive notices and orders.” The Debtor Long has listed his name and all other names as “Long, Bobby J. f/d/b/a Palmetto Law Group (Formal Name) f/d/b/a Jacobsen & Long (Operating Name) f/d/b/a Jacobsen Pincus & Long (Amended Operating Name) f/d/b/a Jacobsen Conway Pincus & Long (Amended Operating Name).” Likewise, the Debtor Jacobsen has listed his name and all other names as “Jacobsen, Karl P. f/d/b/a Palmetto Law Group (Former Name) f/d/b/a Jacobsen & Long (Operating Name) f/d/b/a Jacobsen, Pincus & Long (Amended Operating Name) f/d/b/a Jacobsen, Conway, Pincus & Long (Amended Operating Name).” To the extent that either of the Debtors has personal liability arising from debts incurred in his affiliation with any of these names, it is not inappropriate to list these trade names and names under which he did business so that creditors may receive notice of the filing. The listing of “Palmetto Law Group” on the petitions does not appear to be an attempt to include “Palmetto Law Group, LLC” (which, as an LLC, presumably is a completely separate and different entity) as a debtor in bankruptcy. Nevertheless, to the extent that there is any confusion over who is a debtor in these cases, the Court finds that “Palmetto Law Group, LLC” is not a debtor in either the bankruptcy case of Bobby J. Long or the bankruptcy case

of Karl Jacobsen and shall make an entry on each docket to reflect such.

Motion to Dismiss

The Debtors each seek dismissal of the Plaintiff's complaints on the grounds that (1) the Plaintiff has failed to plead with specificity the allegations giving rise to claims of fraud, defalcation, larceny, and embezzlement, included in her § 523(a)(4) and § 523(a)(6) claims; and (2) each complaint refers prejudicially to conduct of the debtors collectively, rather than individually, which may not be relevant or even attributable to that particular individual. The Court will construe the motions as motions to dismiss for failure to state a claim and, alternatively, motions for a more definite statement.

Rule 8 of the Federal Rules of Civil Procedure, made applicable by Rule 7008 of the Federal Rules of Bankruptcy Procedure, provides that a claim for relief shall include a "short and plain statement of the claim showing that the pleader is entitled to relief" and that "each averment of a pleading shall be simple, concise, and direct." In addition, Federal Rule 9(b) provides that all averments of fraud should be stated with "particularity." "Because the Federal Rules embody the concept of liberalized 'notice pleading,' a complaint need contain only a statement calculated to give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." *United States v. Baxter International, Inc.*, 345 F.3d 866, 881 (11<sup>th</sup> Cir. 2003) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Nevertheless, "[w]here Rule 9 is implicated, plaintiffs must plead not only the general nature of their injuries but also the specifics of how and when they were injured." *Id.* at 883. The Court has reviewed the complaints and concludes that, even if a heightened standard of Rule 9(b) applies, each complaint sets forth allegations for § 523(a)(4) and § 523(a)(6) claims with sufficient detail to permit each Debtor to answer and defend.

Further, the Court does not find that the Complaints' references to the conduct and

actions of the Debtors, collectively, is prejudicial. To the extent that any allegation does not apply to that particular Debtor, he may deny it. *See* FED. R. CIV. P. 8(b). Each Debtor is an individual with his own set of defenses and will be treated as such. At trial or in dispositive motions, the Plaintiff will be required to prove each element of each claim as to each Debtor. If the Plaintiff cannot carry the burden of proof on each element with respect to each Debtor, she will not prevail.

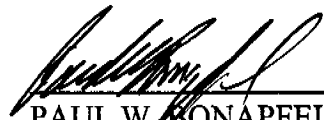
Based on the foregoing, it is

ORDERED that the Debtors' motions to dismiss are DENIED; and it is

FURTHER ORDERED that an entry shall be made on the docket of each Debtor's bankruptcy case that the "Palmetto Law Group, LLC" is not a debtor in bankruptcy.

The Clerk is directed to serve copies of this Order on the persons on the attached Distribution List.

At Atlanta, Georgia, this 30 day of June, 2006.



PAUL W. BONAPFEL  
UNITED STATES BANKRUPTCY JUDGE

**DISTRIBUTION LIST**

Shayna M. Steinfeld  
Steinfeld & Steinfeld  
P.O. Box 49446  
Atlanta, GA 30359

Karl P. Jacobsen  
433 Highland Avenue  
Apt. 1454  
Atlanta, GA 30312

Bobby J. Long  
2124 Cheshire Bridge Rd. NE 3211  
Atlanta, GA 30324